

1 yelling at each other, like Bill locked my CDs. No,
2 they're my CDs for the station. I thought --

3 Q You couldn't run away fast enough.

4 A It took me about 16 months. So you asked?

5 Q About the petition to deny.

6 A About the petition. Why they would do that?
7 I think they were angry and they didn't like me. They
8 didn't like the state of how the station was enmeshed
9 and governed by the superintendent's office and the
10 board of education because they had their own ideas of
11 how the station should be run, really different
12 approaches. I think the group and myself wanted the
13 station to go in the same direction, which is to, --
14 because one of the things I was hopeful of when I
15 started at the station was that the board of education
16 would follow through.

17 There were no promises, absolutely no
18 promises, but the board had established a task force
19 earlier in the year to make some recommendations for
20 how best to go forward with governing the station, how
21 best to go forward with operating and managing the
22 station.

23 One of the recommendations was to do what a
24 lot of public radio stations have done, like what I
25 was familiar with down in San Diego at KPBS, to assign

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1 oversight and management of the station to an
2 auxiliary organization, like a separately incorporated
3 501(c)(3), to provide the capacity and more direct
4 board direction and oversight of the station. I knew
5 that the board of education -- in San Francisco, their
6 principal priority, their main job is to make sure
7 that there are books in the classroom, that there's
8 enough food in the cafeteria, that the buses run on
9 time.

10 Quite frankly, the station as a management
11 priority is far down on the list, and rightly so. But
12 because of that, the station was kind of left on its
13 own to kind of do what it wanted, and the only time
14 the board ever heard about the station was when
15 something bad happened. So I think the folks who
16 filed the petition and I both kind of wanted to follow
17 up on the task force recommendation to set up a
18 501(c)(3), to directly manage -- I mean, the district
19 would maintain the license, without a doubt.

20 The district was not selling the license.
21 It was more of a property management kind of concept,
22 where the district owns the property but set up an
23 agreement with another company to operate the property
24 or to manage the apartment building, for lack of a
25 better term. The approach the Petitioners took, it

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1 was like taking an ice pick to an eye to get a piece
2 of dust out. You know, I wanted to embrace the
3 change. Well, it never happened. But I think they
4 saw the recommendation. They wanted the board to go
5 through with it.

6 They didn't see any activity, at least on
7 the surface. I was working with Enrique and with the
8 superintendent's office to move forward with the
9 recommendation, but politics and reality just got in
10 the way. People didn't want to do it. So I don't
11 know if I'm getting to your question.

12 Q You are. You're doing fine.

13 A So I think that that was likely their
14 motivation. It was angry. They did it in an angry
15 kind of way.

16 (The document referred to was
17 marked for identification as
18 Ramirez Exhibit No. 5.)

19 BY MR. SHOOK:

20 Q Now, but when they finally did get to the
21 point of putting their anger on paper, they leveled a
22 number of charges. Some of them had to do with
23 employment matters. There was a lot of fuss about
24 EEO, which in the end turned out not to go anywhere.
25 But, there were also charges made about how the

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1 application questions were answered, and one of them
2 in particular concerned the public file. In that
3 sense, I want to show you at least page 4 of the
4 petition. You can just sort of read through that to
5 get an idea of what --

6 A What section?

7 Q You can read the entire page to yourself.
8 There are certainly other pages that could make this
9 more complete, but I just want to give you a little
10 memory jog in terms of what was going on the time.

11 One of the beauties of having my office not
12 too far away is that if I need to, I can always run
13 back and get the entire petition, but for my purposes
14 right now, I just wanted to show you this page to
15 hopefully bring back in your mind some of what was
16 going on at that time. Along those lines, when the
17 petition to deny arrived, did you actually read
18 through the entire petition? As I said, I can always
19 get it, but I'll describe it generally.

20 MS. REPP: I have it.

21 MR. SHOOK: Okay.

22 THE WITNESS: Yeah, I would have read
23 through it.

24 BY MR. SHOOK:

25 Q There was 20 plus pages of argument and

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1 there were exhibits all over the place, as I said,
2 most of it having to do with EEO matters, but do you
3 remember reading through the petition itself?

4 A Should I read it right now?

5 Q No. Please, we'll be here several days.

6 A I do remember reading through it, but it
7 seemed at that time so contentious that I needed to
8 leave it to the attorneys to respond to, because just
9 looking at it, it amounts to a huge distraction from
10 station -- from managing and running the radio
11 station. But in answer to your question, yes, I do
12 remember reading it.

13 Q Then, the page that I gave you, page 4,
14 makes various claims about what you knew and when you
15 knew it relative to the public file. To distill it,
16 if you will, what this is saying is that you knowingly
17 checked a box that you shouldn't have checked, that
18 you should have checked the "no" box instead of the
19 "yes" box. That's what these people are arguing. Did
20 you have that understanding when you read through the
21 petition, that that's what they were charging you
22 with?

23 A Yeah. Yeah. That -- yeah.

24 Q As you've mentioned, knowing what you know
25 now, you recognize that you should have checked the

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1 "no" box instead of the "yes" box.

2 A For sure.

3 Q But at the time, your belief was that you
4 would correctly check the "yes" box?

5 A Yeah. I mean, at the time, I was working
6 literally to the best of my knowledge at the time.

7 Q Did your thinking change at all as a result
8 of the arguments made by the Petitioners, that the
9 light bulb went off and it was like maybe I shouldn't
10 have checked the "yes" box, or did you come to that
11 realization only after you started working at CPB and
12 you had to go through the various things that you've
13 described at CPB?

14 A Yes. There was an embarrassing moment of
15 oops, if I had known better I could have done better.
16 Yes, there was a moment of oops. I don't remember if
17 it came out of my reading of this or if it came out of
18 Ernie Sanchez explaining to me what was going on.

19 Q Did you ever share the oops thought with
20 anybody? Other than the people who are here today,
21 had you shared that thought beforehand with anybody?

22 MS. REPP: Could I just add before you
23 answer that we would be claiming the attorney-client
24 privilege with your conversations with Ernie Sanchez?

25 MR. SHOOK: You would be claiming it, but in

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1 this instance, we would be disputing that the
2 privilege still exists. We can get into the
3 declaration at a later point where it is actually made
4 in the declaration that there is reliance on counsel's
5 advice. With that as a defense, that constitutes a
6 waiver of the privilege.

7 MS. REPP: I don't disagree in the context
8 of what's in the declaration that that's a specific
9 waiver, but only to the extent that we're talking
10 about what is in the declaration. The statement in
11 the declaration related to what was discussed before
12 the application was signed.

13 MR. SHOOK: I didn't think that was the
14 nature of the question at this point.

15 MS. REPP: Okay. What was the question?

16 MR. SHOOK: That's very good. That's a very
17 good question. I'll have to try to reconstruct it in
18 my mind.

19 BY MR. SHOOK:

20 Q We were referring to the euphemism "oops."
21 That's probably going to be my starting point here,
22 that when you had that oops moment, you've shared that
23 with us today. Had there been an earlier point in
24 time when you shared that oops moment with anybody
25 else?

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1 A No.

2 Q So prior to today, there would have been no
3 one that you would have told, gee, I should have
4 checked the "no" box instead of the "yes" box on this
5 application?

6 A I don't know if I'm supposed to answer. No,
7 I wouldn't have. Can you ask the question again?

8 Q Sure. You know, we've been referring to
9 Question 2, Section 3 of the application, which talks
10 about whether documentation has been placed in the
11 public file at the appropriate time, as required by
12 the rule. You've acknowledged that, on the basis of
13 what you've learned as a consequence of being at CPB,
14 you recognize that the question should have been
15 answered in the negative as opposed to "yes."

16 A Correct, and I made a mistake.

17 Q Right. The question at this point is
18 whether you shared that realization with anybody prior
19 to today.

20 A No.

21 Q Now, after reading the allegations that were
22 leveled against you relative to the public file and
23 the certification made in terms of what was in the
24 public file, did you then go back to the public file
25 to take a look at it to see what was there?

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1 A I don't remember.

2 Q Do you remember whether you directed anybody
3 to go back to the public file to give you a report in
4 terms of what was there?

5 A No, I don't remember doing that. I don't
6 remember doing that. I don't think I would have done
7 that, because at the time, I would have been sure that
8 I was right, and so I don't think I would have done
9 something like that.

10 Q Now, in terms of being sure that you were
11 right, had you shared your reasoning with anybody in
12 terms of how it was that you came to the "yes" answer?

13 A I don't remember.

14 (The document referred to was
15 marked for identification as
16 Ramirez Exhibit No. 6.)

17 BY MR. SHOOK:

18 Q I'm going to show you another document that
19 has been a bit of a mystery to us, at least. This is
20 from the petition to deny. It's Exhibit BB. First of
21 all, prior to the time you received the petition to
22 deny, did you have any awareness that Exhibit BB
23 existed?

24 A No.

25 Q So I take it that you are not the author of

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1 Exhibit BB?

2 A Correct.

3 Q Do you have any idea as to who the author
4 is?

5 A No.

6 Q Now, there's some handwriting that appears
7 on Exhibit BB following point No. 1. The words,
8 "willful false statements" and a portion of the word
9 "and" that preceded it are circled, and then there are
10 a couple of exclamation points drawn out there. Then
11 underneath it has "re maintenance," and it looks like
12 "of public file." Do you have any idea who hand wrote
13 that word in there?

14 A No, I don't.

15 Q Then following point 2, there's a reference
16 to EEO policy, and then it has 5/6, "list hires
17 through any EEO process." Do you have any idea who
18 wrote that?

19 A No, I don't.

20 (The document referred to was
21 marked for identification as
22 Ramirez Exhibit No. 7.)

23 BY MR. SHOOK:

24 Q Now, as a result of the petition to deny,
25 one of the things that happened, at least so far as we

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1 can tell, was the preparation of a declaration.

2 MS. REPP: Can I have the petition back?

3 MR. SHOOK: No, we'll just put it in the
4 public file.

5 MS. REPP: I'll keep it out in case we need
6 it.

7 BY MR. SHOOK:

8 Q Now, in terms of this declaration, first of
9 all, it appears to be six pages in length, and on page
10 6 there is an execution date noted and a signature.
11 Could you tell us if that's your handwriting and your
12 signature?

13 A Yes, it is.

14 Q Now, could you tell us how it was this
15 declaration came to be put together?

16 A I remember having a telephone conversation,
17 or doing this by telephone with a lawyer who worked in
18 Ernie Sanchez's office, Susan -- I can't remember her
19 last name.

20 Q So it wasn't Ernie himself?

21 A Correct.

22 Q Basically, as a result of your conversation
23 with this individual, this declaration came to appear?

24 A Correct.

25 Q So I take it that you weren't the person who

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1 actually did all the typing that resulted in this
2 declaration. That was somebody else?

3 A Yes.

4 Q From the time that the declaration as we
5 have it appeared to the time you signed it,
6 approximately what period of time are we talking
7 about? Weeks, days, hours?

8 A I missed the first half of your question.

9 Q We have this six page document that bears
10 your signature. From the time that you got something
11 akin to this, if not this exactly, until you signed
12 it, approximately how much time transpired?

13 A I don't remember.

14 Q Do you recall from what it was that you
15 first received what changes, if any, you may have made
16 to the document?

17 A I don't remember making any changes.

18 Q I would like to direct your attention
19 initially to page 3, paragraph 9. If you could just
20 read that to yourself. Now, some of this ground we've
21 already covered in various questions, but I want to do
22 it now in the context of this declaration. There's a
23 reference here to a meeting with Dave Evans that we
24 had talked about. Apparently, that meeting took place
25 sometime in August 1996, which would have been, I

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1 guess, very shortly after you became the general
2 manager.

3 A Correct.

4 Q As a result of this meeting with Mr. Evans,
5 did you have some kind of understanding that at least
6 in his opinion the public file was deficient in some
7 way?

8 A I do recall him bringing it up, but it
9 really didn't -- it didn't stick in my mind, because
10 my preoccupation at the time was with getting ready
11 for constructing the station and then getting ready
12 for the move. I think that this meeting that I had
13 with Dave was primarily about that. This would have
14 been something that Dave would have said as an
15 afterthought or as a "and, you should know this," but
16 really, my attention, my focus, was on what do we need
17 to get ready for the station move.

18 Q I think that we had talked about that as a
19 result of this conversation with Dave Evans that that
20 did not immediately trigger some kind of look at the
21 public file at that point.

22 A Correct. I think it was a combination of
23 getting the renewal notice and then looking into what
24 activities I would need to conduct to complete that
25 process, that the ball really got rolling on making

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1 sure that everything was complete and conformed to the
2 way things needed to conform to.

3 Q So in other words, as a result of the
4 conversation with Mr. Evans, that did not trigger a
5 look at the public file at that point?

6 A Yeah, to the best of my memory. Correct.

7 Q That conversation would not have been the
8 cause for you ultimately to have looked at the public
9 file.

10 A Correct.

11 Q Now, moving up to page 4, paragraph 10, if
12 you could read paragraph 10 to yourself. Now, in
13 terms of paragraph 10, the first sentence speaks in
14 terms of your having assigned Ms. Hecht the task of
15 reviewing the file. Does this help bring to mind
16 whatever it was that you had wanted her to do, whether
17 reviewing the file consisted solely of simply telling
18 you what was in there or whether reviewing the file
19 consisted of something more than that?

20 A I don't remember. I imagine that it
21 wouldn't have been something more than reviewing the
22 file, because in her voluntary status, I don't think I
23 would have assigned any greater responsibility to her
24 than that.

25 Q In common parlance, in terms of what I

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1 understand reviewing the file to mean, it would
2 basically be look to see what's there and tell me
3 what's there. Would that be an accurate
4 understanding? Is that putting too fine a point on it
5 at this stage?

6 A Yeah. Given the passage of time, I'm
7 reluctant to say that that's what I intended for her
8 to do at the time.

9 Q The second sentence reads that you did not
10 consider the list that she produced to be accurate.
11 Was there something that you had in mind then in terms
12 of what it was that was inaccurate about it? In
13 looking through this, I'm hard pressed to figure out
14 what you might have been thinking of in terms of what
15 made it inaccurate, so if there's something that you
16 can recall, that would be helpful.

17 A Again, I don't remember that what she gave
18 me is what I asked for, so I wasn't expecting a list.
19 It's not what I was expecting. So what she gave me
20 was a typewritten letter -- or a typewritten list --
21 with a lot of typos on it, a lot of strikeouts, not
22 giving me a great degree of confidence in how accurate
23 it was. Again, this is at a point of time in the
24 station where I began to suspect, or I began to think
25 to myself I don't know who to trust, I don't know what

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1 to believe. In other words, I don't know what to
2 believe.

3 Q Now, where did Susan Hecht fit into this?
4 She's a volunteer, which I guess means she didn't get
5 paid to do whatever it was that she was doing. Right?

6 A Correct.

7 Q So she wasn't, I guess, a formal employee of
8 the school system?

9 A Correct.

10 Q So she was somebody who came basically when
11 she was able to and did whatever it was that she was
12 asked to do?

13 A Yeah. I remember that mainly what she did
14 was staff the "reception desk" right near the front
15 door.

16 Q So that was the person who would, what, just
17 take random phone calls and redirect them?

18 A Took the phone calls, let folks in the front
19 door when they buzzed in. The term "volunteer" at
20 KALW takes on a greater dimension than I think it does
21 at most --

22 Q Are we talking about heart and soul? You
23 know, somebody is there because they're committed to
24 the station in some fashion?

25 A We're talking volunteer -- for instance,

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1 even some of the full-time employees who worked full-
2 time shifts during the week Monday through Friday and
3 then hosted music programs, like a folk music program
4 on the weekend, when they came in for that work, they
5 considered themselves volunteers. This is kind of one
6 of these things that's not a concept, but they took
7 advantage of the opportunity to move between well, I'm
8 a volunteer today, I'm talking to you as a volunteer,
9 or you can't tell me what to do, I'm on volunteer time
10 right now.

11 It just was frustrating to deal with people
12 who thought in those terms. I bet if you look at the
13 station's program guide today and look at the --,
14 because this is how it was back when I was at the
15 station, I can't imagine that would have changed. If
16 you look at the staff listing at the back page of the
17 program guide, if that's where it still is, you'll see
18 a listing of staff members. Below that, you'll
19 probably see a listing of volunteers, and you'll see a
20 lot of overlap, someone listed in both places.

21 These are volunteers. Remember, this is
22 also happening in San Francisco, in the Bay area,
23 where, at least in the public radio industry one of
24 the stories that we tell is about the time at the
25 Pacifica-owned and operated station out in Berkeley,

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1 where a volunteer producer who was hosting a program
2 passed away. In their will, they willed their time on
3 the air at the Pacifica station to another volunteer,
4 because that was how -- I can get into Bay area public
5 radio culture and some more, but I just wanted --

6 Q That gives us a flavor.

7 A -- to put a footnote on volunteer takes on a
8 greater dimension at KALV.

9 Q Then the second part of that sentence makes
10 a reference to that, "She may have misunderstood my
11 directions when she worked on this assignment." Does
12 this trigger any memory as to what specific directions
13 it was that you may have given her?

14 A No. The only thing I remember about this is
15 what she provided went way beyond my expectations. I
16 can only imagine what I asked her to do, which could
17 have been Susan, there's the public file, would you
18 pick it up and put it in some kind of order and bring
19 it into my office so I can go through it. But I can't
20 remember with a certainty what I asked her to do.

21 Q Now, to do what she did, considering the
22 number of file folders that were there, it probably
23 took her a week, two weeks, three weeks?

24 A Certainly, it would have taken a great deal
25 of time to go through the public file, because there

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1 was a lot in there. Yeah.

2 Q Now, in getting that report back from her
3 and looking at the public file yourself, did it ever
4 occur to you that there were perhaps a lot of
5 documents in that file that just shouldn't have been
6 there? Public file, open it up and put something in,
7 and it just mushroomed to the point where?

8 A Sure. I thin one of the things that I
9 remember doing is looking for documents, guidance
10 documents or resources that would be helpful in
11 helping me to better understand what needs to be in
12 there, what doesn't need to be in there, and I'm
13 attracted to headlines. There was an NAB memo about
14 the public file. Its headline -- I remember this.
15 Its headline was what to keep, what to toss. I mean I
16 was very attracted to that. I can remember using that
17 as a resource. I don't remember tossing anything,
18 because I'm always afraid to toss, but I am mindful of
19 knowing what to keep, yeah, and recognizing such.

20 Q That happens to trigger some other things,
21 so we're going to take a slight diversion here. One
22 of the things that the school district did for us was
23 that it provided us with various reference manuals.

24 MS. REPP: May I ask for a break?

25 MR. SHOOK: Sure.

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1 MS. REPP: Do you have facilities on this
2 floor?

3 MR. SHOOK: Yes, we do.

4 MS. LEAVITT: Yes, we do. I'll take you out
5 because they're locked. There on the other side of
6 the locked door.

7 MR. SHOOK: We can be off the record here.

8 (Whereupon, at 1:05 p.m., the deposition in
9 the above-entitled matter was recessed, to reconvene
10 at 1:45 p.m. this same day, Tuesday, November 9,
11 2004.)

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A F T E R N O O N S E S S I O N

(1:50 p.m.)

Whereupon,

JEFFREY RAMIREZ

having been previously duly sworn, was
recalled as a witness herein and was examined and
testified further as follows:

FURTHER EXAMINATION BY COUNSEL FOR THE COMMISSION

(The document referred to was
marked for identification as
Ramirez Exhibit No. 8.)

BY MR. SHOOK:

Q I believe we had just discussed paragraph 10
of your declaration. I think it had come up that
there were some documents that you had reviewed
beforehand in connection with the preparation of the
renewal application. We received some documents from
the San Francisco Unified School District, and I want
to show a number of them to you and see whether or not
any of them were documents that you had seen.

The first document that I'm handing you is
fairly substantial. It has on the bottom of it SFUSD-
00001, and it goes to 00082, so there are 82 pages of
this. It bears the title, The Public Radio Legal
Handbook. If you would just glance through it. I

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1 don't expect you to read it and memorize it all. Now,
2 is this a document that you saw beforehand or a type
3 of document that you saw before you filled out the
4 renewal application?

5 A Yeah, this looks like the legal handbook
6 that the National Federation of Community Broadcasters
7 provides to stations to help them understand legal
8 things.

9 Q So this is a document that you would have
10 looked at from beginning to end? What is it about
11 this document that you would have looked at, if
12 anything?

13 A I had this document. It was a binder in my
14 office at KALW. I would have referred to this book
15 because in my mind, I would have considered the
16 license renewal application a legal thing, so I would
17 have referred to this guidebook, this handbook.

18 Q Well, one of the things that's in there,
19 first off, is a station operation's checklist. Is
20 this something that you remember reading?

21 A I don't remember reading this section. The
22 sections that I remember referring to are the ones
23 that as part of their headline or the chapter heading
24 involved the FCC.

25 Q I'm referring now to page 5 and also to page

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1 6 in terms of how they're marked with SFUSD. Under
2 Heading 3, it reads Local Public File. There are a
3 number of things here on the pages that we're looking
4 at, page 5 and also the carryover to the next page,
5 page 6. Is this material that you had referred to?

6 A I don't remember referring to this list, to
7 this checkoff list.

8 Q The next thing that I want to show you, it's
9 on page 15, Heading 2, Regular Filings and Reports.
10 The first paragraph I have clipped here is the second
11 one. If you could just read this page to yourself and
12 then tell me whether this was something that you had
13 looked at.

14 A This doesn't look familiar.

15 Q Then the next page talks about a number of
16 reports, the next page being page 16 in terms of SFUSD
17 stamping. In the middle of it, it refers to an
18 ownership report. Did you read the section relative
19 to the ownership report prior to filling out the
20 renewal application?

21 A This doesn't look familiar either.

22 Q I'm going to jump ahead to page 18. The
23 heading reads About Forms and Filings. There is
24 another heading a little bit smaller down below that
25 that reads Public File Requirements. If you could

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1 read that paragraph to yourself and then tell me
2 whether or not you had read this prior to filling out
3 the renewal application.

4 A I may not have.

5 Q Moving to page 21, there's a heading called
6 Ownership. If you could read the first paragraph to
7 yourself and tell me whether or not you had looked at
8 this prior to filling out the renewal application.

9 A I don't remember reading that.

10 Q Next page, 22, again under the heading
11 Ownership Report toward the bottom, the very last
12 paragraph on that page. Read that to yourself,
13 please.

14 A I don't remember reading that.

15 Q Page 25, the heading -- it's fairly small --
16 The Issue of Timing. Could you read that to yourself
17 and then tell me whether you had read this prior to
18 filling out the renewal application?

19 A No, I don't remember that.

20 Q Up to page 46, the heading reads Program
21 Recordkeeping, and then there's another heading a
22 little bit smaller underneath that that says Required
23 Records. Then down at the bottom of the page, the
24 heading again, which is smaller still, reads Problems
25 Programs List. That paragraph carries over to page

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1 47, so if you could read that paragraph to yourself.
2 The question is the same, whether or not you had read
3 that prior to filling out the renewal application.

4 A This section does look familiar. I don't
5 remember if what I'm reading here about the issues
6 list is from this section or from another part of the
7 book.

8 Q What is it that looks familiar to you?

9 A That it discusses that stations have to
10 place in its public file a quarterly list of issues
11 that the station covered in its programming for that
12 period of time.

13 Q And you don't remember whether it was this
14 particular paragraph or something that perhaps we'll
15 come to as we go through?

16 A Correct.

17 Q Very good. Now, we're up to page 52. The
18 large heading toward the bottom reads What Must be in
19 the Public File. The second paragraph is the one that
20 I have clipped, so if you could read that paragraph to
21 yourself and tell me whether or not you had read that
22 prior to filling out the renewal application.

23 A I don't think so. Let me see. It does --

24 Q Yes, I guess it does.

25 A Just looking at this section here, it does

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1 look familiar. Yeah, this section does look familiar.

2 Q What is it in particular that strikes you as
3 familiar?

4 A It's like I remember reading it before.

5 Q Does any sentence or phrase, anything stand
6 out in your mind as something that you had read?

7 A The headline stands out What Must be in the
8 Public File. The way that it's organized, it's easy
9 to read. It's easy to scan.

10 Q You had mentioned that you had looked at the
11 public file about the time the renewal application was
12 being prepared. Did you have this handbook to refer
13 to so that you could look and see, okay, this is what
14 the handbook says is supposed to be in the public
15 file, and this is what I have? How did this process
16 work?

17 A I don't remember the process. I don't
18 specifically remember referring -- an act of having
19 the binder here and then having the file here. This
20 book lived on a shelf in my office. My recollection
21 of reading or referring to the book is me reaching
22 over and grabbing the book, opening it up in front of
23 me, and then referring to the sections that I thought
24 were the ones that directly related to the work
25 activity that I was conducting at the time, which was

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